

ORIGINAL

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

BALLY MANUFACTURING CORPORATION,

vs.

D. GOTTLIEB & CO., a corporaition,  
and WILLIAM ELECTRONICS, INC., a  
corporation,

Defendant/Counter-  
Plaintiffs.

)  
No. 78 C 2246

DOCKETED

JAN 17 1984

FILED

JAN 17 1984

L. Scott Carpenter, Clerk  
United States District Court

DEPOSITION

of

WAYNE E. NEYENS

CLAUDE W. YOUNKIN, JR.

OFFICIAL COURT REPORTER  
U. S. DISTRICT COURT  
UNITED STATES COURT HOUSE  
ROOM 1916  
CHICAGO, ILLINOIS 60604  
312-427-4393

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

BALLY MANUFACTURING CORPORATION )  
Plaintiff/Counter- )  
Defendant, )  
vs. ) No. 78 C 2246  
D. GOTTLIEB & CO., a corporation, )  
and WILLIAMS ELECTRONICS, INC., a )  
corporation, )  
Defendants/Counter- )  
plaintiffs. )

DEPOSITION OF WAYNE E. NEYENS, taken  
by the plaintiff/counterdefendant herein, pursuant to  
notice and agreement of counsel, before Julie A. Churchill,  
being a disinterested person, not of counsel for, or  
employeed by any or either of the parties hereto, or  
interested in the outcome of said cause, a duly Certified  
Shorthand Reporter and Notary Public of the State of  
Illinois, at 135 South LaSalle, Suite 900, Chicago,  
Illinois, on Thursday, June 28, 1979, commencing at  
10:00 o'clock a.m.

PRESENT:

FITCH, EVEN, TABIN & LUEDEKA  
(135 South LaSalle Street, Suite 900,  
Chicago, Illinois 60603) by:  
MR. DONALD L. WELSH,  
MR. A. SIDNEY KATZ and  
MR. JEROLD B. SCHNAYER,

PRESENT (Continued):

ARNOLD, WHITE & DURKEE  
(2100 Transco Tower  
Houston, Texas 77056), by:  
MR. WAYNE M. HARDING,

appeared on behalf of defendant Gottlieb.

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Neyens - direct

WAYNE E. NEYENS,  
called as a witness by the plaintiffs herein, having  
been by me, the said Julie A. Churchill as Notary  
Public aforesaid, first duly sworn, was examined upon  
oral interrogatories, and he did thereupon depose and  
testify as follows:

DIRECT EXAMINATION

BY MR. WELSH:

Q. Would you state your full name, please?

A. Wayne Neyens, N-e-y-e-n-s.

Q. You have no middle initial?

A. E.

Q. Where do you live, Mr. Neyens?

A. 867 Washington Street, Elmhurst, Illinois.

Q. By whom are you employed?

A. D is the initial, Gottlieb, G-o-t-t-i-e-b,

and Company.

Q. In what position are you employed?

A. I am Vice President of Engineering and Product  
Development.

Q. How long have you held that position?

A. Since 1963.

Q. What formal education have you had since high  
school?

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A. Some college. I never graduated.

Q. During what period of time did you attend college?

A. Generally evenings from '36 through '41 or '2, and then Electronics or Electrical Engineering with the Army at Georgia Tech.

Q. Was that full time with the Army?

A. Yes.

Q. How long did you attend those courses?

A. Approximately one year.

Q. Was that in an officer training program?

A. No, it was not officer training.

Q. What was the program?

A. It was leading toward radio maintenance and electronic servicing. I was a Corporal at the time.

Q. Have you had any instruction in electronics since that time?

A. None.

Q. What year was that Army training or years?

A. '43.

Q. Would you tell us generally what was your employment from 1943 to 1963 when you became Vice President at Gottlieb?

A. Well, I was in the Army until 1946. When

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I was discharged, I started with Gottlieb in 1939. I was with Gottlieb when I went to the Army. I went back to Gottlieb after the War.

At that time I was an engineer at Gottlieb. In 1950 I became their designer and was their designer until 1963. In 1963 I took over the engineering department.

Q. Have your duties and responsibilities as Vice President of Engineering Product Development been generally the same since 1963?

A. Yes, generally I think, although my responsibilities have increased to some degree.

Q. When did that responsibility increase occur?

A. I think very gradually over the years. You know, it has been 16 years, and it has been a very gradual increase more to the front office type operation.

Q. What are your duties and responsibilities now?

A. I supervise the engineering area, the game design area, R&D area.

I pass judgment on the engineering projects that are going on.

Q. You determine what projects are undertaken and --

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A. That is correct.

Q. (Continuing) -- and what is done with respect to them?

A. That is right.

Q. Have you had that responsibility for the entire period since 1963?

A. Yes, sir, pretty much so.

Q. In that area of your responsibilities, has that increased more in recent years?

A. Yes, I would say at first I did general engineering and supervising of design, product development. But as I say, my responsibilities have increased over the years.

Q. Has your current level of responsibility in that regard extended over the last five years, for example?

A. Yes.

Q. During your employment at Gottlieb, has the business of that company been the manufacture and sale of pinball games?

A. Yes.

Q. Has that company business involved any other products?

A. To a minor degree.

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(There was a discussion off the record,  
after which the taking of the deposition  
was resumed as follows:)

BY MR. WELSH:

Q. In the last ten years, has D. Gottlieb & Company manufactured and sold any products other than pinball games?

A. No.

Q. Does D. Gottlieb & Company today manufacture and sell pinball games with electronic control systems?

A. Yes, we do.

Q. How do you refer to those systems, or do you have any general term of reference to it with respect to the control system?

MR. HARDING: Are you referring, by you, to Mr. Neyens, or you, Gottlieb?

MR. WELSH: Mr. Neyens in his position at Gottlieb.

BY THE WITNESS:

A. I do not really understand your question.

BY MR. WELSH:

Q. Did you refer to the games with the electronic system as solid state games?

A. Solid state, yes.

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Q. Do you refer to them as microprocessor controls?

A. Yes.

Q. Do you have any single term of reference in that regard, or do you have several terms?

A. I do not think we have changed our terminology. They are pinball machines and flipper games, and that is what they are.

Q. How do you distinguish them in terminology from electromechanical involved games?

A. At first we just called them solid state, and now we do not differentiate between them at all. In fact, we build them both ways.

Q. You still manufacture and sell both electromechanical and solid state?

A. Sure.

Q. Approximately what percentage of games manufactured and sold currently are electromechanical?

(There was a discussion off the record, after which the taking of the deposition was resumed as follows:)

MR. HARDING: Mr. Welsh, that is sensitive business information and I'm trying to recall the local rule conference agreement that we had on the subject

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matter.

MR. WELSH: You and I, I believe, not in the presence of Mr. Goldenberg --

MR. HARDING: But in the presence of Mr. Lynch?

MR. WELSH: No, I do not think he was present when you and I discussed the matter, but we did discuss it on Tuesday or last week really, when Mr. Robbins' and Mr. Scherer's depositions were taken as to how information of a sensitive nature on both sides would be handled, and I think you and I tentatively agreed that --

MR. HARDING: I was not here for Mr. Robbins.

MR. WELSH: That is right, but prior when you and I had a discussion, I understood that transcripts would not be filed until there had been an opportunity to examine them and designate those portions which would be considered confidential, and go into a separate book.

That same general approach was agreed to by Mr. Lynch and Mr. Goldenberg prior to the Robbins, or during the Robbins' deposition.

MR. KATZ: You may recall during Mr. Evans' deposition that whenever you have a problem with sensitivity, we put it in the super secret book immediately, and the court reporter, Laura, was maintaining a second book for that material so there would be no question

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about it and you could not overlook it later.

MR. HARDING: What I am recalling though is the local rule agreement pertaining to the division of discoverable information pertaining to electromechanical versus solid state games.

As I recall, the agreement was not to differentiate between models, but I think drawing the lines between electromechanical versus solid state, we did agree to produce. Is that your understanding?

MR. WELSH: I do not have any recollection of anything contrary to that.

MR. HARDING: As Mr. Welsh has indicated on what we referred to as a second book, is a book which will be kept under seal at the Court, and it will be a secret -- it will be maintained in secrecy and occasionally we will refer to a question and answer to go into the second book. If you would extract the question and answer from the regular transcript and put it into the separate book, we would appreciate it. We would like the answer to go in the second book.

Now would you repeat the question?

MR. WELSH: I will repeat the question.

(Pages 11 through 26 are bound in a separate volume marked Confidential.)

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BY MR. WELSH:

Q. Was anything ever done under your direction toward investigation of solid state control for pinball games at Gottlieb?

A. I'm sorry, I did not follow you.

MR. WELSH: Would you read back the question?

Q. (Read by the reporter.)

BY THE WITNESS:

A. I wish you would rephrase that. I do not know how to answer that question.

BY MR. WELSH:

Q. Under your direction, did you ever engage upon any development project with respect to solid state control of pinball games?

A. Yes.

Q. When did that occur?

A. Shortly after '72.

Q. What happened with respect to that?

A. We built up -- we hired an electronic engineer purely for research in that area. We put him on his own and told him to build us a game.

Q. When did you hire this person?

A. I do not recall the date, but I would estimate '72.

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Q. Sometime in 1972?

A. Yes, '72-'73, right in that area.

Q. What was his name?

A. Dino Houpis.

Q. How do you spell Houpis?

A. H-o-u-p-i-s, I guess.

Q. Did you give him a particular assignment?

A. Yes, we told him to take a game, a mechanical game and make it work with transistors.

Q. Anything else that you told him?

A. That was it.

Q. Did he proceed with the assignment?

A. Yes, he did.

Q. What happened?

A. Well, just like anything else. It starts out very basic. He took a mechanical game and he added into it transistors to replace relays, and the scoring mechanism was the same. The reel-type scoring as we knew it then in mechanical games and as we know it now in mechanical games. It was left in the game. It <sup>WAS</sup> ~~IS~~ a very beginning effort.

He was not a pin-game man. He was an organ man. He was a musical-type person. He loved organ music and that was his life, but he needed work

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and we hired him.

Q. Are you aware what experience he had in electronics before coming with you?

A. Yes, he had a doctor's degree in electronic engineering.

Q. Do you know how recently before he came with you he received his doctor's degree?

A. No, I do not.

Q. Approximately what age was he when he came to you?

A. I would guess he was 32.

Q. Do you know whether he had any experience in electronic design work?

A. Yes, he did have experience.

Q. What was that experience?

A. Organ circuitry.

Q. With a particular company?

A. Yes, sir.

Q. What company?

A. I do not recall.

Q. Do you know what length of time he had that experience?

A. It was several years. It couldn't have been too many years because the organ business went down the

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tube about that time, and he was laid off.

Q Do you know what school he received his doctor's degree from?

A No, I do not.

Q Did he complete his assignment?

A To a degree.

Q To what degree?

A It was not a game that -- he had a game that worked, yes, and it was, I would say, a rather feeble effort. It was not a game that you would produce in mass production. He just got through with the first effort.

Q Did he work with a particular electro-mechanical game?

A Obviously it was a particular game. I do not know the name of it.

Q Was it a Star Trek game?

A I do not know.

Q Did he only work on one game?

A Yes.

Q Do you know where he is now?

A No, I do not. Back in the organ business, as far as I know.

Q Did the game play?

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A. Yes.

Q. Now you stated that you did not feel it was suitable for mass production. Why did you feel that way?

A. It was not done in a workmanlike manner, I guess, would be the best way to describe it.

Q. Did it play satisfactorily?

A. Yes, it played satisfactorily, but not -- you can make a lot of things that do not go just beyond making it.

Q. When you say it was not done in a workmanlike manner, do you mean it was not -- what do you mean?

A. Well, it is hard -- I believe I would probably put it the best way I can would be that I do not think it was reliable enough.

Q. For production?

A. Yes.

Q. Was cost a factor?

A. I do not know cost in that respect. The time was not right for such a game. We had a very successful --

MR. HARDING: Off the record.

(There was a discussion off the record, after which the taking of the deposition was resumed --)

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BY MR. WELSH:

Q. What do you mean, the time was not right?

A. We had a very successful mechanical game.

There was no demand for such a thing.

Q. Did the practicality of the game have anything to do with your feeling that it was not a game for being produced on the mass basis?

A. Well, at that time, transistors in place of relays was not that exciting to us. We were experts at the relay business.

Q. Approximately how long did it take Mr. Houpis to make the game?

A. Well, there was no date that you could say he finished. There was no finished date. He never finished the game as such.

I would say he never finished before he left.

Q. Approximately how long did he work on it?

A. He worked up until he left. He only came to us because he wanted to be employed while he was waiting for the job at his organ company, and as soon as he got his job, he took off. I do not know -- I would say six months to nine months, someplace in that area. It could have been a year, but I do not think so.

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Q. Did he work pretty much by himself?

A. Yes, he did.

Q. Did you ever consult with him about the progress of the work?

A. Oh, yes.

Q. Did you ever discuss with him the use of any type of logic other than transistors?

A. No.

Q. What was done with the game which he converted?

A. After he left we kept it around for a while.

Q. While he was there, was he the only person working on electronics?

A. Yes.

Q. After he left, did you do anything further toward solid state control of pinball games or development of such a control?

A. We started looking for another man to replace him.

Q. Did you find such a man?

A. We sure did.

Q. Who was that?

A. Allen Edwall.

Q. Did you hire Mr. Edwall?

A. Yes.

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Q. When did you hire him?

A. The fall of '74. October, I believe.

Q. Did you hire him for a specific purpose?

A. To carry on Dino Houpis' work.

Q. That is the development of a solid state control system for pinball games?

A. To design a solid state game, yes. Again it was all in R&D.

Q. I beg your pardon?

A. R&D only.

Q. When you hired Mr. Edwall, were you aware of what experience he had had in electronics?

A. Yes.

Q. What was that?

A. Outside of his formal education, he worked for Philco-Ford and a Nassau project.

Q. Were you aware when you hired him that he had had experience with microprocessors?

A. No, I do not believe so.

Q. Did you know or were you aware at that time as to whether he had any experience with pinball games?

A. Yes. He had no formal experience with pinball machines. He was like so many other young people. They are fascinated with pinball. He serviced pinball

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machines while he was in college.

He had had some games of his own that he bought and refurbished. He has a basic love for pinball machines. That is one of the things we look for. That is one of the things that Dino did not have. He did not understand pinball.

Q. So that was a factor in deciding to hire

Mr. Edwall?

A. Yes, absolutely.

Q. When Mr. Edwall was hired, did you give him any particular assignment?

A. The same as Dino. Build a game, try to pick up where Dino left off.

Q. I believe you stated that in the game that was converted by Mr. Houpis, you continued to use the reels for scoring?

A. Yes.

Q. What part of the electromechanical game were the transistors or the transistor controls actually substituted for?

A. Relays.

Q. Just relays?

A. Yes.

Q. Did you discuss with Mr. Edwall when you gave

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him his assignment what type of system to use?

A. No.

Q. Did you discuss with him what part of the electromechanical control system should be replaced by electronics?

A. I do not recall our conversation at that time.

Q. Do you recall any conversations during his early employment as to what type of electronic components to use?

A. No, I did not tell him what kind of electronic components to be used.

Q. You left that entirely up to him?

A. Up to him, right.

Q. You are aware of microprocessors now, are you not?

A. Yes.

Q. Do you recall when you first became aware of microprocessors?

A. No, I do not recall.

Q. Did you become aware of them in October of late 1975?

A. I had read articles on the microprocessor back -- I do not know -- '73-'74, whatever.

Q. Is that how you first became aware of them?

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A. Yes.

Q. Do you recall how you first became aware of them in your position at Gottlieb?

A. No.

Q. Did Mr. Edwall discuss microprocessors with you in the latter part of 1975?

A. Well, we discussed them, yes, but I do not know whether it is '75. We have discussed microprocessors, but I do not know what year.

Q. You did remember sometime, though, during his development work?

A. Yes.

Q. Discussing microprocessors?

A. Yes.

Q. Do you know what type of solid state control system Mr. Edwall incorporated in the first pinball game he worked on?

A. No, I do not.

Q. Do you know whether he used TTL logic?

A. I do not know.

Q. Did he at some time begin to use microprocessors?

A. Yes.

Q. Do you recall when that was?

A. '75.

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Q. When in 1975?

A. I do not recall.

Q. Do you recall the circumstances under which --

A. We bought a Rockwell simulator and hooked it

up to a game.

Q. Was that an expensive piece of equipment?

A. I do not know what you mean by expensive.

Q. More than a thousand dollars?

A. Yes.

Q. Did it require authorization of someone?

A. Yes.

Q. Approximately how much did it cost?

A. I do not recall.

Q. Was that called an assimulator?

A. Yes.

Q. Whose authorization was needed?

A. Mine.

Q. And you gave it, I take it?

A. I did.

Q. Are you aware of what type of solid state control was being worked on by Mr. Edwall before he started the microprocessor control?

A. He started off following Dino's game, which did not last very long after that.

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Q. So that was just simply replacement of relays

by transistors?

A. That is correct.

Q. Does the term TTL logic mean anything to you?

A. Yes.

Q. When did you first become aware of TTL logic?

A. I do not know.

Q. Was it prior to the time Mr. Edwall came to work for you?

A. Oh, yes.

Q. Do you know whether Mr. Edwall used TTL logic at any time while working for you prior to the time you started working with the microprocessor?

A. I do not know.

Q. Was the assimulator purchased in the latter part of 1975?

A. I do not recall.

Q. During the period after he started working for you and up to the time the assimulator was purchased, did you have much contact with Mr. Edwall to know what he was doing?

A. Yes.

Q. What was that contact?

A. Well, I stopped in to see him every day and

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see how he was progressing, what he was doing. I saw that he was there, but I had many other duties and I did not spend much time with him.

Q. Did Mr. Edwall recommend to you the purchase of the assimulator?

A. Yes, he did.

Q. Do you know how he became aware of it?

A. No, I do not.

Q. What did he tell you about the microprocessor control when he recommended purchase of the assimulator?

A. It was his considered opinion that that was the way to go. Let's try it.

Q. Do you know what basis he had for that opinion?

A. No, I do not.

Q. Do you know if he had met with Rockwell personnel prior to his recommendation for the purchase?

A. Yes, he had attended a school at Rockwell on the assimulator.

Q. Prior to the purchase?

A. Yes.

Q. That school was in California?

A. Yes.

Q. Did the company pay for his attendance there?

A. Yes.

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Q. Do you know how he became aware of the school?

A. No, I do not.

Q. Do you know whether he received any calls by Rockwell personnel or representatives of Rockwell prior to that time?

A. Yes, he did.

Q. Do you know in what regard?

A. Salesmen come in all the time.

Q. Are you aware of any particular salesmen that talked with him prior to the time he went to the assimulator school?

A. No.

Q. Are you familiar with the name John Twist?

A. Yes, I am.

Q. What does that mean to you?

A. John Twist is a company who has a sales organization representing many companies, Rockwell being one of them.

Q. Are you informed as to whether a representative of John Twist talked with Mr. Edwall before he went to that school?

A. I do not know.

Q. Are you familiar with the name Allen Peterson?

A. Yes, I am.

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Q. How are you familiar with him?

A. He is a sales representative. He was a sales representative of Twist.

Q. He worked for John Twist?

A. He worked for Twist.

Q. Do you know if Mr. Edwall had any conversations with him before he went to the school?

A. I do not know.

Q. Did Mr. Edwall require your authorization to go to the school?

A. Yes.

Q. Do you recall what, if anything, he said to you at the time he requested authorization?

A. I do not recall the conversation. We had a conversation.

Q. Do you recall anything about it, even in a general way?

A. I remember we sat and discussed this school and his excitement over the microprocessor. Realizing it was still all R&D and we were not pressed in any way to proceed, we discussed it quite at length.

Q. Did the subject of any other microprocessors other than Rockwell come up in a discussion?

A. I do not believe so.

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Q. Did he mention any other manufacturers such as National Semiconductor?

A. Not at that time.

Q. Did he mention that he had had experience with an Intel microprocessor before coming to Gottlieb?

A. I do not recall.

Q. Are you now aware of that?

A. Yes.

Q. When did you become aware of it?

A. I do not recall.

Q. Do you know where Mr. Peterson is employed now?

A. No, I do not.

MR. WELSH: Let's take a short break.

(There was a brief recess, after which the taking of the deposition was resumed as follows:)

BY MR. WELSH:

Q. When Mr. Edwall first started working for you, did he continue to work with the games that Mr. Houpis had worked on?

A. Yes, he looked at it.

Q. Do you know if he did anything further with that game?

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A. Very little. He found it difficult to pick up on.

Q. Do you recall what he worked on next?

A. He built several games.

Q. Approximately how many?

A. I do not recall the number.

Q. Do you have any idea?

A. Two, three.

Q. This was all prior to the time that he started to work with the assimulator?

A. Yes.

Q. Did any of those games have TTL logic?

A. I do not know.

Q. Do you have any recollection as to what type of solid state control any of those games had?

A. No, I do not.

Q. Did you discuss with Mr. Edwall the types of control of those games?

A. I am sure I did. I say I do not recall at this point.

Q. Do you recall going into detail with him regarding the various games?

A. No, I do not believe I went into detail with him.

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Q. Was there any procedure followed by Mr. Edwall with respect to what game he might be working on?

A. No, there was no procedure.

Q. Was there any practice with respect to reporting to you what he was working on?

A. Yes, I stopped by there every day and discussed his present status.

Q. Did you determine together what he would do next, whether he would undertake a particular project or not?

A. Yes.

Q. Do you know whether he had more than one project under consideration at any one time?

A. No, I wouldn't know.

Q. What was Mr. Edwall's assignment after he discarded Mr. Houpis' game?

A. To build up his own game.

Q. Was the assignment to build an entire game or a game with complete solid state controls?

A. We were not pushing him at all to build anything really. We just wanted to have a smattering of electronics experience. We kept him busy by building a game, had him build his own game, designers are always in need.

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Q Did he build his own game?

A Yes.

Q Did it have a name?

A He named it something, I do not recall the name.

Q When you say built his own game, do you mean design the play field and everything about it?

A From the ground up.

Q In addition to the --

A Yes.

Q -- solid state portion.

In your daily contact with Mr. Edwall, were you not aware as to when he would finish a project with respect to a particular game?

A I would be aware of it, yes.

Q Did you ever have any demonstrations of games by him after he completed projects?

A Yes, sure.

Q Did you discuss with him how the games worked and other aspects of it?

A Yes.

Q Did you draw any conclusions with respect to such games?

A Yes, I was very enthusiastic with his work.

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Q. Were those games considered to be prototypes or just experimental?

A. R&D only. Very little interest expressed in the front office.

Q. Was the front office aware of Mr. Edwall's work?

A. Yes, they were.

Q. If the games of Mr. Edwall were considered for R&D only, is it correct that they were not considered for production?

A. That is correct.

Q. Was consideration given in your discussions with him as to whether any of the games was suitable for production?

A. We discussed the possibility, but none of them worked.

Q. Why were they not suitable for production?

A. They were -- speaking of play board only, poorly designed, which had nothing to do with their electronics.

Q. How about the electronic portion? Were they considered for production?

A. At that time we did not consider changing our production facility over to an electronic game in any

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way. We had a very successful operation. Our games were very successful.

Our people were trained in mechanical games. There was no request, no need for a so-called solid state game. Therefore, no interest in our front office.

Q. And yet the front office was aware that there was R&D work going on?

A. That's correct.

Q. Were some of the games that Mr. Edwall worked on previously electromechanical games with the substitution of the solid state control?

A. Yes.

Q. Did you give any consideration to going into production with respect to the solid state control for those games?

A. No.

Q. Was that for the reason that you just expressed about no interest generally in solid state because electromechanical games were successful?

A. That is correct.

Q. Did the front office ever change its attitude with respect to solid state?

A. Obviously they changed.

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Q. When were you first aware of the change?

A. I do not recall when they changed.

Q. It was after Mr. Edwall started to work with the microprocessor, was it not?

A. Oh, yes.

Q. Do you have any recollection as to when their attitude changed?

A. No, I do not.

Q. Are you aware of any reason why their attitude changed?

A. I do not know why their attitude changed.

Q. Did you ever discuss it with them?

A. Yes, we discuss everything.

Q. Did your discussions include the fact that your competitors were working on or had come out with solid state games?

A. We <sup>HAD</sup> have no way of knowing what Bally is doing at the time. We pay no attention to that. We know nothing until it is on the street.

Q. I was not limiting the question just to Bally. Any competitor. Did that come up in the discussion?

A. I am sure it did.

Q. Did you have any view as to whether that was a reason for the front office becoming interested in

Neyens - direct

producing its own solid state game?

A. I think my enthusiasm for such a game was the forerunning <sup>of</sup> this, and that is why Allen went to Rockwell to study their system.

Really the whole thing was pushed by salesmen. They were coming in every day and talking about it. Talking microprocessors.

Q. Which salesmen were you referring to when you said they come in every day talking about it?

A. No particular salesman.

Q. Were they salesmen for Rockwell?

A. Could be one. Would be one of them, yes.

Q. How about any other companies?

A. Yes.

Q. Which in particular?

A. They all came in. We had 50 salesmen a day step in.

Q. Limiting the question to salesmen for micro-processor manufacturers, what companies were involved?

A. I do not recall exactly which ones.

Q. Was National Semiconductor one?

A. National would be one.

Q. How about Intel?

A. Intel would be one. They all were there.

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Q. Did this occur about the time when you decided to purchase the assimulator?

A. Yes, perhaps before. In that area.

Q. Do you remember a game "Sky Dive" worked on by Mr. Edwall?

A. I remember Sky Dive, yes.

Q. And do you remember what he did with respect to incorporating solid state into that game?

A. No, no, not that game per se.

Q. Do you remember what the results of his project with respect to that game were?

A. No, I do not recall.

Q. Do you recall any games of Mr. Edwall being referred to as 1-E, 2-E, 3-E and so forth?

A. Yes.

Q. What do you recall in that regard?

A. He numbered his games 1-E, 2-E, 3-E. We always numbered games and he picked up 1-E, 2-E and 3-E.

Q. Do you know how high his numbers went on those games?

A. No, I do not.

Q. Do you recall whether any one of those games had substantially all solid state control systems?

A. I do not know.

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Q. Did you make any valuations of any of those games 1-E, 2-E and so forth with Mr. Edwall?

A. Yes.

Q. What was the nature of the evaluation of each game?

A. We discussed the game. Are you speaking of the electronics or the game itself?

Q. The electronics.

A. We would discuss it and he would explain to me what he was doing. I am not a solid state engineer, and I followed him the best I could. I relied on his judgment.

Q. Did you do that with respect to each game?

A. Yes.

Q. Do you have any recollection with respect to any particular game?

A. No.

Q. How did you feel Mr. Edwall was doing in his work?

A. I thought he was doing excellent.

Q. Did you feel that his work was leading in any particular direction?

A. Yes, I did.

Q. What was that direction?

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A. I hoped we were coming out with an electronic game within a short time. That is my personal feeling, but not the company feeling.

Q. That was with respect to these 1-E, 2-E, 3-E?

A. Yes.

Q. The E games?

A. Yes.

Q. Did your evaluation with Mr. Edwall with respect to those E games include a consideration as to whether the solid state circuitry was suitable for production purposes?

A. I guess so, yes.

Q. What did you conclude in that regard?

A. That it could be used, but we were not about to use it.

Q. Because of the front office?

A. Yes, there was no need for it at that time.

Q. Did you get down to the details of making cost estimates and so forth of the electronics of the various E games?

A. No, we never got down to costs and they were not completed enough to cost out. Cost was not my consideration.

Q. Was that true of all the games prior to the

Neyens - direct

assimulator purchase?

A. Yes.

Q. Is it correct that prior to the discussions with respect to the purchase of the assimulator, you did not have any conversations with Mr. Edwall regarding microprocessors?

A. I am sure in our conversations we discussed it someplace. Precisely, I do not know.

Q. Do you recall any discussions with him shortly after he came to work for you regarding the use of microprocessors rather than transistors that had been used by Mr. Houpis?

A. We had discussed it.

Q. Did you reject --

A. It was an ongoing discussion.

Q. But you never, prior to the purchase of the assimulator, decided to look into microprocessors, is that correct?

A. That is correct.

Q. Was there any particular reason for that?

A. Well, it was not my decision. I did not have much knowledge in that area to tell him look, put that microprocessor in. I did not direct him in that area. I had to keep him motivated and going in the direction

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I thought we should go.

Q. What direction was that?

A. Building a solid state pinball machine.

Q. Regardless of the type of system?

A. Regardless, right.

Q. Did you have any discussion with him prior to the assimilator purchase discussing the question of whether microprocessor control systems might be too expensive?

A. No.

Q. At the time you decided to purchase the assimilator, do you recall receiving any proposals from Rockwell?

A. Proposals for what?

Q. For the use of microprocessors in pinball games.

A. I don't recall any.

Q. I show you what has been marked Document No. GO 936-945, which is a document produced by counsel from Gottlieb from some files at Gottlieb and ask you if you recognize that as something you have seen before?

(There was a brief interruption after which the taking of the deposition was resumed as follows:)

BY THE WITNESS:

A. I seem to recall seeing that.

BY MR. WELSH:

Q. This bears the notation L-10/14/75. Do you recall seeing that on or about that time?

A. I must have. I do not recall the date.

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Q. When Mr. Edwall received the assimilator, did he have any particular assignment with respect to its use?

A. Hook it up to a game.

Q. Was any particular game involved?

A. I do not recall the game.

Q. Did he carry out the assignment?

A. Yes.

Q. Is the game King Pin familiar to you?

A. Yes.

Q. Is that the game that he used to hook up the assimilator?

A. I do not recall that.

Q. What is your recollection with respect to the King Pin game?

A. We built a game so I'd be familiar with it.

Q. Was it electromechanical or solid state?

A. Electromechanical.

Q. Do you know whether any King Pin game was ever converted to solid state?

A. If it was, it was only in his office, no place else. There was none built in production or any other way.

Q. Do you recall completion of the assignment

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of Mr. Edwall to hook up the assimilator to a game?

A. Yes.

Q. What if anything happened when it was completed?

A. We played it, enjoyed it, found out what it could do. I was amazed by all the controls he had over it.

Q. Do you recall when that was done?

A. No, I do not.

Q. Do you recall whether it was a one-player or four-player game?

A. No, I do not.

Q. Were you informed as to the details of the solid state control system?

A. To a degree, but not being too familiar with it, it did not penetrate too well.

Q. Were you given a demonstration of the game?

A. Absolutely.

Q. Was consideration given at that time to putting that solid state control system into production?

A. No consideration was given at that time.

Q. Was any evaluation made of the solid state control system?

A. Evaluation with respect to what?

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Q. Whether it might be suitable for production?

A. No.

Q. Was it shown to top management?

A. Yes, it was.

Q. Who did you consider to be included in top management other than yourself?

A. Mr. Weinberg, Mr. Gottlieb, Mr. Smith.

Q. That is Alvin?

A. Alvin Gottlieb, yes.

Q. Judd Weinberg?

A. Judd Weinberg and Robert Smith.

Q. What is Robert Smith's position?

A. He is Vice President.

Q. Does he have any particular area of responsibility?

A. Production.

Q. Is he a Vice President of production?

A. Yes.

Q. Did you evaluate Mr. Edwall's game hooked up to the assimilator with respect to playability?

A. Yes.

Q. What was your evaluation in that regard?

A. It played beautifully.

Q. Did you consider it to play well enough to be

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made a production game?

A. Yes.

Q. Was the control concept of that game ever put into production?

A. No.

Q. What was done with the game?

A. It sat there for a long while and eventually was thrown out.

Q. Was it used in any future development work?

A. I do not know.

Q. Do you recall approximately how long it took Mr. Edwall to complete that assignment?

A. Once he had the assimilator?

Q. Yes.

A. Six weeks maybe.

Q. What did Mr. Edwall do next after completion of that assignment?

A. Well, there is no such thing as completing an assignment of that type. It is sort of an ongoing thing.

He played with that game at length, practicing his software technology, polishing it up, trying his wings, so to speak.

Q. Do you recall approximately how long that process took?

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A. No, I do not.

Q. Did he work on anything else in the meantime?

A. Allen is a very busy young man. He never wasted much time. He goes on to another game, another board. He is always experimenting with something.

Q. Do you recall what he worked on next?

A. Not precisely.

Q. Do you have any general recollection?

A. No, it would be the end of the game. That would be all I could tell you.

Q. Was he then given the assignment to develop a control system for production games?

A. I think he thought every one had production potential.

Q. With respect to that first game that was hooked up to the assimilator, after he completed the hookup and demonstrated it to you, were there any problems with the game or the solid state control system?

A. I would say there is always a problem in anything you did. There certainly was no serious problem, but problems obviously.

Q. Do you recall any of the problems?

A. No, not precisely.

Q. Was there any problem with respect to not

Neyens - direct

detecting a switch closure so that a score wouldn't be registered when it should have been?

A. Having worked with mechanical games for so many years, recognizing a switch closure is not a major concern of mine. I could look over that very easily.

There could have been problems in the system at that time that he might have thought of, but I did not see any.

Q. What was the reaction of top management to that first game?

A. They were impressed.

Q. Were they impressed favorably?

A. Yes.

Q. Did that favorable impression go so far as to change their viewpoint which you expressed earlier?

A. No.

Q. Did they express any opinion as to the future of solid state controls in pinball games when they saw that demonstration?

A. I couldn't say what their opinion is.

Q. Did you not recall their expressing anything at that time?

A. No.

Q. Did they decide to produce that game at that

Neyens - direct

time?

A. No.

Q. Was any decision made by top management at that time with respect to solid state control systems?

A. No.

Q. Was there any discussion about increasing the R&D effort in that regard at Gottlieb at that time?

A. No, there was no discussion on speeding it up or slowing it down. We were left pretty much to ourselves. As I say, we were very busy at the time.

Q. Making electromechanical games?

A. Yes.

Q. Are you familiar with AMOA shows or MOA shows?

A. Yes.

Q. Do you attend those shows?

A. We attended the shows back many years ago and then we got out of the shows, and we were out of them until two years ago. We have been in the last two shows.

Q. You have actually exhibited the last two years?

A. Yes.

Q. Prior to the time when Gottlieb resumed

Neyens - direct

exhibiting, did you attend any of the shows?

A. Did the company attend any of the shows or me personally?

Q. You personally.

A. Yes.

Q. Did you attend all the shows?

A. Not all of them.

Q. Did you attend the show in the fall of 1975?

A. I do not recall.

Q. When you attended the shows, did you make a practice to examine all the pinball games shown at the show?

A. Certainly not in detail. I was a little bit embarrassed by going down there. We were not exhibiting. I felt no need to go there. I felt if I went to see theirs we should be there. Therefore, I did not examine any game closely. I did not want to be seen in a Williams booth or a Bally booth. I am known in the trade. I did not think it was ethical personally, so when I did go, I skimmed it and left.

Q. Do you recall seeing at that 1975 MOA show, a pinball game called the Spirit of '76 exhibited by Mirco?

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A. Yes, I saw the game. I am not sure it was at the show, but I did see a Mirco Spirit of '76 game.

Q. Were you aware that it had a solid state control system?

A. Yes.

Q. How did you become aware of that?

A. I do not recall.

Q. Did you play the game?

A. Yes, I played the game.

Q. How did it play?

A. Fair. Mirco was never a very big company, you know, their products were not very much to speak of.

Q. When you say fair, were you speaking of the play field design of the game?

A. The play field design was a copy of one of the Gottlieb games.

Q. What do you mean when you say it played fair?

A. Well, I was not overly impressed with the play of the game, even though it was a Gottlieb board. I did not think it played as well as our game played.

Q. In what respect?

A. <sup>FEEL</sup> Field.

Q. Do you recall whether that was before or after

Neyens - direct

you played the first assimilator connected game by

Mr. Edwall?

A. I do not recall the time.

Q. Did you make notes on the pinball games that you saw at the show?

A. No.

Q. Why did you go to those shows at all?

A. Mainly because I was told to go.

Q. By top management?

A. Yes.

Q. Were you given a purpose for going or an assignment?

A. No, just to see what is going on.

Q. Did you report back to top management that you had observed a pinball game with a solid state control at the '75 show?

A. I do not believe so.

Q. Did that game come up in the discussion with top management at the time that the first game of Mr. Edwall connected to the assimilator was demonstrated?

A. I do not recall it coming up.

Q. After that first game was hooked up, you stated that Mr. Edwall worked on another game, but you could not recall exactly what it was.

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A. (Shaking head.)

Q. Was that game completed to your knowledge?

A. I do not recall.

Q. What, if anything, else happened after that in connection with your R&D program regarding the solid state pinball control?

A. Allen continued to work on his game.

Q. Was there any further contact with Rockwell or anyone else outside of the company?

A. Contact with Rockwell outside of the company?

Q. Outside of Gottlieb with Rockwell, was there any further contact with Rockwell or anybody else outside of Gottlieb regarding solid state?

A. No.

Q. There was contact with Rockwell at some time after that, was there not?

A. Yes.

Q. When did that contact first occur?

A. I do not recall the date.

Q. Do you recall whether any proposal was made by Rockwell?

A. Yes.

Q. After that date?

A. Yes.

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Q. Do you recall any proposal by anyone else?

A. National.

Q. I show you now Documents number G0954 to G0960 and I ask you if you recognize that document as something which you have seen before?

A. Yes.

Q. Is that a proposal from National Semiconductor that you referred to?

A. I would say so, yes.

Q. Are you familiar with the circumstances leading up to National making a proposal?

A. Yes.

Q. What are the circumstances?

A. They came in, gave us a sales pitch, as did Rockwell.

Q. That Document G0954 contains a note:  
"Allen Edwall - 3-25-76."

Did you see this document on or about that time?

A. Yes.

Q. Was the pitch made to you prior to that time?

A. Yes.

Q. Who made the pitch to you?

A. There was a group of National people.

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Q. What were their names?

A. I do not recall their names.

Q. Was Michael Stroll --

A. Michael Stroll was one of them.

Q. How many?

A. There were more than two, so I would say three to four.

Q. To whom did they make the pitch?

A. Myself, Allen Edwall, Robert Smith, Alvin Gottlieb and a couple of my engineers.

Q. Was Mr. Weinberg present?

A. Yes and no. He spent very little time with us. He would pop in once in a while.

Q. Was there only one such presentation or were there more than one?

A. I think there was more than one. I think they came back a second time.

Q. Within a fairly short time?

A. Yes.

Q. During either of those presentations, did they mention any competitors of Gottlieb, such as Bally or Williams during the presentation?

A. I do not recall.

Neyens - direct

Q. Do they indicate whether any other pinball manufacturers were working with them or have been approached by them?

A. I do not recall any such conversation.

Q. Did you keep any notes of that meeting or those meetings?

A. Yes.

Q. Were they produced to counsel for Gottlieb?

A. I do not believe so.

Q. Do you still have them?

A. No, I do not.

Q. What happened to them?

A. When we decided to go over to Rockwell, I cleaned them out.

Q. When did that occur?

A. When did what occur; when we went with Rockwell?

Q. Yes.

A. '76 sometime.

Q. Late in '76?

A. Yes, summer of '76, it would have to be.

Q. Whose idea was it for National to come in and make a presentation to you?

A. It would have been my decision.

Neyens - direct

Q. Did you solicit their coming in?

A. No, no.

Q. I show you another document marked with identifying numbers GO380 through GO388, which appear to include the proposal of Document No. GO954 to GO960 with some other documents attached; specifically, Documents GO 387 and GO 388. I show you those documents and ask if you recognize GO 387 as something you have seen before?

A. I do not recall it.

Q. Do you recall considering the subject matter mentioned there or discussed there?

A. Yes.

Q. In what regard?

A. We always discussed the amount of money involved we were going to spend for something like that. We discussed it.

Q. When you say we, who do you refer to?

A. Everybody involved, front office down, I guess.

Q. The figure 25,000 appears there. Was that in dollars?

A. Dollars.

Q. Was there under consideration at that time

Neyens - direct

on or about March 29, 1976 a specific arrangement with National Semi?

A. No, I do not think so. You know, there was a lot of discussion among ourselves at that time about whether we should go with anybody. We thought we had in-house capability. A lot of feelings within the company was to do it ourselves, it was not that difficult a job.

Q. Did you, in fact, go outside the company?

A. For what purpose?

Q. Well, you said you could do the job in-house?

A. We felt we could do the job in-house. We had two people bothering us seriously about this, National and Rockwell both. There was some feeling among ourselves that why go to them when we could do it ourselves?

Q. Who among you thought that?

A. I was one of them.

Q. Any others?

A. I do not know what the others thought.

Q. But you did not stay in-house, is that correct?

A. That is correct.

Q. Who made the decision to go outside?

A. We had the two presentations and decided to

Neyens - direct

go with National to expedite the coming on board with a finished product. We thought it would be the fastest way to go, and if we did it in-house, it would take us a longer period of time than it would take them.

MR. KATZ: Excuse me, may I have that answer read back, please? The witness may have misspoke.

A. (Read by the reporter.)

MR. WELSH: It is 12:30. Why don't we break for lunch.

MR. HARDING: Do you think we could resume at 1:30 in order to try to finish?

MR. WELSH: I have a problem with doing that. Maybe we can make it at 1:45.

MR. HARDING: At the earliest possible time.

(WHEREUPON, the taking of the deposition was recessed until 1:45 p.m.)

BALLY MANUFACTURING CORPORATION, )  
Plaintiff/Counter- )  
Defendant, )  
vs. ) No. 78 C 2246  
D. GOTTLIEB & CO., a corporation, )  
and WILLIAMS ELECTRONICS, INC., a )  
corporation, )  
Defendants/Counter- )  
plaintiffs. )

Thursday, June 28, 1979

1:45 o'clock p.m.

Parties met pursuant to recess.

PRESENT:

MR. DONALD L. WELSH,  
MR. A. SIDNEY KATZ, and  
MR. JEROLD B. SCHNAYER  
appeared for plaintiff;

MR. WAYNE M. HARDING  
appeared for defendant Gottlieb.

- - - - -

(The taking of the deposition of  
WAYNE E. NEYENS was resumed at  
135 South LaSalle Street, Room 900,  
Chicago, Illinois, as follows:)

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WAYNE E. NEYENS,

having been previously duly sworn, was examined further upon oral interrogatories and testified further as follows:

DIRECT EXAMINATION (Resumed)

MR. WELSH: Would you please read back the last question and answer?

(WHEREUPON, the record was read by the reporter.)

BY MR. WELSH:

Q. Were you looking for the fastest way to go because you had made a decision that Gottlieb would go into the solid state pinball control system?

A. Yes.

Q. So the decision had been made then by that time?

A. Yes, and it's the same time frame we are talking about around March of 1976. Yes, it would be in that area.

Q. Had the decision been made prior to that time?

A. I doubt it, no. We were in a quandry about it.

Q. Was the decision made at a single meeting

Neyens - direct

or were there several meetings?

A. I do not recall.

Q. What persons at Gottlieb were involved in making that decision?

A. Mr. Weinberg, Mr. Gottlieb, Mr. Smith, myself.

Q. Do you recall any discussions as to reasons for that decision?

A. I think at this time the handwriting was on the wall as to the future of the industry.

Q. What did you feel that to be?

A. We thought that solid state would be a way of the future.

Q. Do you recall what led you to believe that?

A. No, I cannot answer that because I had the feeling all along. I felt it for years and I think our top management just began to realize it.

Q. Do you have any idea as to what caused them to realize it?

A. No.

Q. What was the basis of this feeling of yours all along, as you put it?

A. I think reliability is the thing that would lead me to it. Having worked with relays for so many

Neyens - direct

years, I recognized their shortcomings and solid state was far superior and the way to go in my mind.

Q. Did the activity of anyone else in the

pinball manufacturing field have anything to do with this decision?

A. The decision to go with Rockwell or National?

Q. Yes.

A. Nothing anyone else did ever influenced us to go with National or Rockwell.

Q. Were any of you in top management at Gottlieb at that time informed as to anything that anybody else in the manufacturing of pinball games was doing?

A. I was not informed. I do not know, I cannot speak for others.

Q. You had no information?

A. No.

Q. You were aware, however, of the Mirco?

A. Yes, I was aware of that one, yes.

Q. Were you aware of any other solid state pinball development or manufacturing efforts?

A. I cannot recall any.

Q. Had you heard any rumors that anybody was working on it?

A. Rumors do not mean anything. There are rumors

Neyens - direct

all the time.

Q. Specifically, had you heard any rumors with respect to pinball games?

A. Nothing specific that I can recall.

Q. Nothing at all?

A. Like I say, I cannot recall a specific instance.

Q. Were you familiar with a company named Atari

at that time?

A. Yes, I am aware of Atari.

Q. Had you heard any rumors as to whether Atari was developing a solid state pinball game?

A. I think at that time they were pretty busy with their videotape stuff. At this time we are talking about, I do not know.

Q. I show you a document identified as No. G0388 and ask if you recognize that as a document that you are familiar with?

A. I am sure I have seen it at that time.

Q. Referring back to the Mirco Spirit of '76 game, did you ever see the service manual or schematic diagrams for that game?

A. I do not recall having seen it.

Q. Did Gottlieb ever acquire one of those games?

A. Yes.

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Q. For what purpose?

A. We buy one of every pinball machine made by any manufacturer, bring in our engineering department, ~~develop it~~, look at it, play it, discuss it, that being one of them.

Q. Do you recall when that game was purchased?

A. No, I do not.

Q. Are notes or reports made with respect to games which are purchased by Gottlieb and examined?

A. Are notes made on it?

Q. Yes, or reports?

A. We make out a report.

Q. Was such a report made with respect to the Mirco Spirit of '76 game?

A. It should have been.

Q. Do you know if that was among the documents?

A. No, I do not know.

Q. Does Gottlieb have a practice of buying new games of competitors as soon as they come out on the market?

A. Yes, within a reasonable length of time, whenever we can get ahold of one conveniently. Certainly we never get the first one, we do not get the last one.

Whenever we can get it, we get it. We buy it on the open

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market.

Q. Have you attempted, as soon as you have heard of a new game to then try to acquire it?

A. Yes, generally within a month or so we try to get it.

Q. Do you normally get them within a month or so?

A. Sometimes they forget to buy them and we do not get to see it. We tell one of our people who is supposed to buy one to buy it.

We tell him to buy one of every game, those are his instructions, but it doesn't always happen that way. He has many other things to do and sometimes it slips by, but generally we see everything.

MR. WELSH: Mr. Harding, I do not know if the report on Mirco's game was produced among the documents that you supplied, but I would like to request if it was not, that a search be made for such report.

MR. HARDING: It is my recollection that those documents were, in fact, searched and there was no such document. I will check it once again, however.

MR. WELSH: Thank you.

BY MR. WELSH:

Q. Do you know whether around the time that this

Neyens - direct

proposal was received by Gottlieb from National, that is the proposal which is Document 380 to 386, Gottlieb supplied any specifications for pinball games to National?

A. Specifications for pinball games?

Q. Yes.

A. The electronic part of it?

Q. Yes.

A. We gave them the parameters.

Q. In what form did those parameters take?

A. It would be in a memo from Allen to National.

Q. I show you what has been produced as a document G0264 through G0267, and ask if you recognize those as having seen them before?

A. Those would be Allen's specifications.

Q. To the best of your knowledge, are those the specifications that were given to National?

A. Yes, to the best of my knowledge, yes.

Q. Were they also given to Rockwell?

A. Not at that time.

Q. At that time, were you dealing with only National?

A. Yes.

Q. When were the specifications given to

Neyens - direct

Rockwell?

A. Well, what happened there, they gave it to National after Rockwell had made their presentation. National and Rockwell both made theirs within weeks of each other. We had them both back a second time, as I recall.

We gave it to National, gave them the parameters and they all left. A week later, approximately, Twist, Mr. Peterson, Mr. Peterson --

Q. Yes.

A. -- came in with his proposal that Rockwell would like to make to us, which I thought was more than fair, and had nothing to lose and everything to gain. It was my decision to go both ways, so we also gave Rockwell the parameters.

Q. I show you what has been marked with identification number G 1921 through 1946, and ask if you recognize that as something you have seen before?

A. This is one of the original proposals they brought in.

Q. Did they bring it in on or about the date of April 12, 1976 that appears on the front?

A. It had to be in that time frame.

Q. Is that the proposal you speak about when you

Neyens - direct

said Rockwell came back a week --

A. No, no, this is prior to that point. See, when Rockwell lost out on the deal, they were hurt by it, I guess. They felt they should have had it, that they had a better system, that they are more equipped to do the job, so they came in with this offer, sent in by Mr. Peterson.

Mr. Peterson brought it in for them.

Q. I show you Document No. G1947 and ask you if you recognize that as something you have seen before?

A. Yes.

Q. What do you recognize it to be?

A. A letter I received.

Q. Is that the proposal you were talking about before that Mr. Peterson brought you?

A. Yes, this was after. I do not believe Mr. Peterson brought this in. He came in. It was strictly word of mouth.

Q. Yes.

A. We just talked and he said I would like to propose this. I said that sounds good to me, I will bring it up to our people, and we have got nothing to lose. We will be willing to listen and then I received this letter from Mr. Browning.

Neyens - direct

Q. Did you receive it on or about the date it

bears?

A. I am sure I did.

Q. Did you accept that proposal?

A. Yes, we did.

Q. Did you ship two Royal Flush games referred to in the following paragraph?

A. Yes, we did.

Q. Do you recall when in relation to the date of June 25, '76, of that letter that you did ship these games?

A. It would be shortly thereafter. I took care of it as quickly as possible.

Q. Do you recall whether there was a formal acceptance to that letter?

A. No.

Q. Was it after receiving the letter that the parameters prepared by Mr. Edwall, as indicated in Documents G0264 through G0267 were given to Rockwell?

A. Yes, we would not have given it to them before that point.

Q. Was it for the purpose of their pursuing the proposal that was outlined in this letter from Rockwell, Document G1947?

Neyens - direct

A. I would like to see the document.

Q. It is the same as this one.

A. Yes, it would be in pursuit of that. They would have to have that to go to work. They are not pinball people.

Q. I show you now Document No. 1186 through 1191 and ask if you recognize those as anything you have seen before?

A. No, I have not seen this. This is somebody's notes.

Q. Do you recognize the handwriting?

A. No, I am not a handwriting expert.

Q. Do you know what Spirit of '76 game was referred to?

A. No, I do not. We had a Spirit of '76, as well as Mirco. Ours was out before theirs came out.

Q. That is the play field that you said the Mirco game resembled?

A. It did not resemble that game, it resembled an older game.

Q. What game was that?

A. I cannot recall the name of the game.

It is a Gottlieb game of about a year prior to their coming out with it.

Neyens - direct

Q Do you recall about this time period in March and April of 1976 having any contacts with any manufacturers of microprocessors other than Rockwell and National Semiconductor?

A I did not have.

Q Were you aware as to whether Mr. Edwall had contacts with any other manufacturers?

A I am sure he did.

Q I show you documents marked with identification numbers G0272 through G0276 and ask if you recognize those as any documents that you have seen before?

A No.

Q Do you recall discussing with Mr. Edwall his being contacted by any representative of Signetics?

A No.

Q Did you ever discuss Signetics microprocessing with him?

A No.

Q Do you know whether prior to the proposal by Rockwell, which was identification number G0936 through 944, Mr. Edwall had been in contact with any manufacturers of microprocessors?

A I do not know for sure. Like I have been saying, the salesmen come in off the street every day,

Neyens - direct

all day from different houses, and they ask for him. Names get around, they came in and asked for him, and he would go out and be nice to them, be friendly to them, and get their information.

Q. But you do not remember discussing such --

A. No.

Q. -- contacts with him?

A. No.

Q. I show you now a document bearing the identification number GO946 through 953 and ask if you recognize that as something you have seen before?

A. This is just like that Rockwell proposal.

It is a sales gimmick. Very vague, and I remember seeing it.

Q. Was this proposal actually accepted by Gottlieb?

A. That proposal? I do not think this is a final proposal. This is just a -- yes, this is basically it. I do not know if there is another one made after this or not, but that is basically what it was.

Q. I believe you said this was a gimmick like the Rockwell proposal.

A. They are all -- it is not exactly the way it ended up, of course. They did not know how they were

Neyens - direct

going to make it either. They had not done the spade work that it took.

They do not know anything about pinball machines. How could they write up something?

Q Do you know whether the date of this, May 28, 1976, is the approximate date on or about which you saw this document?

A I am sure I saw it on or about that date, yes, sir.

Q Was that after the parameters of Mr. Edwall was furnished to National, do you know?

A This would have to be before.

Q This was before the parameters?

A We wouldn't give them parameters unless we were going to go with them, so it would have to be before that.

Q On the page with identifying number G0950, under Section 4 entitled "Pricing" and Subsection A entitled "Development Charges," the sum of \$25,000 stay within one week of contract signature. Was payment of such a sum part of the agreement with National?

A Yes.

Q Did Gottlieb in fact pay such sum?

A Yes.

Neyens - direct

Q. Was it also part of the arrangement that Gottlieb furnish one or more pinball games to National for use in converting it to solid state?

A. Yes.

Q. Was that actually done?

A. Yes.

Q. How many pinball games were shipped to National?

A. I do not recall.

Q. Do you recall what game was shipped?

A. The same game.

Q. Royal Flush?

A. We probably sent them two, but I am not sure of that, because they did make one of them.

Q. Do you recall when you entered into the agreement with National in relation to this date?

A. No, I do not know the date.

Q. Was it before Rockwell came back with the proposal?

A. Yes, before that point.

Q. In Document G1947 --

A. Yes, it was before that time. Is there a date on there?

Q. June 25, 1976.

Neyens - direct

A. It would be June of '76 approximately.

Q. I show you a document with identification number G0918 and 919, and ask if that purports to be notes dated June 9, 1976, with a reference to National Semiconductor and ask if you recognize that as a document you have seen before?

A. Notes obviously of somebody, not mine.

Q. You do not recognize the handwriting?

A. No, no.

Q. Is the subject matter familiar to you?

A. Yes.

Q. Do you recall any discussions with anyone such as Mr. Edwall regarding sending Mike Stroll coil information?

A. Yes, we sent him the coils.

Q. Does that help refresh your recollection as to when the agreement with National --

A. Like I say, it apparently is around June 1st.

Q. Yes.

A. Shortly before this point, and several weeks before that letter.

Q. Is the June 25th letter to you from Mr. Browning?

A. Yes, yes; see, they came in like I say, a week, two weeks after we decided to go with National,

Neyens - direct

and we had our original discussions -- Peterson and I, and I told them the proposal is very interesting.

Q. Is it correct that after you reached agreement with each National and Rockwell, parameters of Gottlieb games were supplied to them?

A. Yes.

Q. Did they then go off on their own and attempt to design a system, each using his own microprocessor?

A. That I do not know.

Q. Did Gottlieb do anything else?

A. Nothing.

Q. Did Mr. Edwall work with either National or Rockwell during the time following the entry into the agreements with them?

A. I do not know. I do not know of any.

Q. What was the next contact that you know of with National?

A. They called us up and were ready to go, bring in the game.

Q. Approximately when was that?

A. It would be in the fall of '76. They were fairly well on schedule. I think their original proposal was 12 weeks. I do not recall, but the area of 12 weeks, and they were fairly well on schedule, which we were

Neyes - direct

surprised at.

Q. What was the next contact with Rockwell?

A. They called us up again. They had their game ready. We said bring it in and they did.

Q. They did bring it in or did someone from Gottlieb go out to California?

A. They brought it in.

Q. Was that true of both Rockwell and National?

A. Yes.

Q. During that period from June to the fall of 1976, when National and Rockwell indicated that they had completed converting Royal Flush games to solid state, what was Mr. Edwall doing?

A. Mr. Edwall was working along at his normal research work, and in the same area. We were not committing -- we did not commit to either company at this time for production.

Q. Do you know if he was contacted by either company during that period with costs?

A. No, I do not know.

Q. If he had been contacted, is it likely that you would have known through your daily contact with him?

A. I probably would have been informed, yes.

Neyens - direct

Q. But you have no recollection?

A. I do not recollect it now, no.

Q. So far as you are concerned, Gottlieb and National were working on their own?

A. National was working on their own, Rockwell was working on theirs, and we were working on our own. We had not committed to them in either case for production. We still had some feeling about whether we should do it ourselves or let them do it.

Q. Do you know more specifically what Mr. Edwall was doing in that period?

A. Not specifically, no.

Q. Do you have any idea at all -- you did say he was going on with the research. Could you be more specific than that?

A. I cannot venture a guess on it.

Q. Do you know that he was not working on converting another game to solid state -- to microprocessor controls?

A. I imagine he was studying the software techniques and building games. He loved to build games. If he was not too busy, he was building a game. Designing play fields, wiring them up and putting the assimilator on it, programming the assimilator.

Neyens - direct

Q I show you a document with identifying numbers G0923 through G0 925, which appear to be a letter from Mr. Edwall to Mr. Pecotich dated July 16, 1976, and ask if you recognize that as anything you have seen before?

A. No.

Q Do you recall discussing with Mr. Edwall around that time receiving specifications for power supply from National?

A. No.

Q Was the receipt of such specifications in accordance with the agreement that was made by National, if you recall?

A. That had nothing to do with our agreement with them. I do not know why it was sent to them. They had been building the power supply and had nothing to do with him. Public contact.

Q I show you documents with identification numbers G0992 through G0998 and G0964 through G0968 and G0984 through G0990, and ask if you recognize any of those as documents that you have seen before?

A. Somebody's notes, but I do not know whose they are.

Q Do the initials JWF have any meaning for

Neyens - direct

you?

A. No.

Q. Does the name John Footh have meaning for you?

A. That has meaning.

Q. Did you know Mr. John Footh in July or

August of '76?

A. I believe that Mr. Footh may have been at one of our meetings, but I had no connection with him at that time.

Q. This was prior to the time that the agreement was reached with Rockwell?

A. '76, '77, yes.

Q. The date of the proposals to Rockwell was June 27, 1976?

A. That is when they started working on the game, shortly thereafter.

Q. Yes.

A. It was after this point that we became very familiar with Mr. Footh. I have never seen his initials JWF, but JF I would have recognized, I think.

Q. Do you recall being aware of Mr. Edwall being contacted by Mr. Footh?

A. No, I do not.

Q. I show you a document numbered G0929 and

Neyens - direct

ask if you recognize that as having seen it before?

A. I recall seeing this.

Q. In what connection do you recall seeing this?

A. I am not sure which company it was, but one of them was having coil problems. The flipper coils,

<sup>BUMPER</sup> the pop-upper and so forth, the coils we sent them on the games were for basic operation. They wanted the proper values. They needed a different coil. So we sent them some coils we thought would work for them.

Q. So there was some contact with one or the other?

A. Yes, apparently they were having a problem with the coil and there are a number of problems with coils. It had to have a different value.

Q. I show you a document bearing identification number G1950 through G1952, and ask if you recognize that as something you have seen before?

A. I remember seeing it.

Q. You do remember seeing it?

A. Yes.

Q. Do you remember discussing it with anyone?

A. Yes, we discussed it.

Q. Who is we?

A. Mr. Smith, Mr. Gottlieb and Mr. Weinberg.

Neyens - direct

Q. The four of you?

A. The four of us.

Q. From this document, the first page G1950, it appears that at least Mr. Smith visited Rockwell on October 12 and 13 of 1976. Is that true to the best of your knowledge?

A. He stopped at Rockwell on some sort of <sup>TRIP</sup> ~~training~~ he was on, yes.

Q. Do you know if he inspected the Royal Flush game that was being worked on at Rockwell?

A. I do not know what he did.

Q. Does this document reflect negotiations between Rockwell and Gottlieb before an ongoing relationship?

A. I think so, yes.

Q. Was such a relationship entered into?

A. Yes.

Q. Was it formalized to your knowledge?

A. Yes, it was formalized.

Q. Now that document we do not have, is that correct?

MR. HARDING: You do not have the contract between them. Rockwell and Gottlieb and several preliminary negotiations leading up to that contract, that is correct.

Neyens - direct

BY MR. WELSH:

Q. Was there just one contract to your knowledge,

Mr. Neyens?

A. I do not know.

Q. This document contained a proposal to Gottlieb, payment of \$50,000 to Rockwell. Would delivery of one or both systems, which were referred to as demonstrator systems to Gottlieb on December, 1976 -- was one or both of such systems delivered to Gottlieb?

A. Not at that time.

Q. Was it delivered earlier?

A. I think it was later.

Q. I show you a document marked No. G1949 and ask if you recognize that as a document you have seen before?

A. No, I have not seen this document.

Q. This indicates that on October 29, 1976, there was shipped to the Gottlieb Company a Gottlieb pinball game with a microcomputer system. Does that refresh your recollection as to when the game of Gottlieb's with a microcomputer was received from Rockwell?

A. Yes.

Q. Shortly after this?

A. Shortly after that.

Neyens - direct

Q. Was anything paid by Gottlieb to Rockwell for that game?

A. We followed the letter of the contract.

Q. As set forth in Exhibit 1950?

A. Yes.

Q. Did you then ultimately pay \$50,000 to Rockwell?

A. Yes.

(There was a discussion off the record, after which the taking of the deposition was resumed as follows:)

BY MR. WELSH:

Q. On Page 2 of that document, with identification number 1951, refers to production of approximately 20 prototype modules. Do you know what those 20 prototype modules were?

A. They were 20 systems, complete systems.

Q. Solid state control systems that could be inserted into games or games with the system?

A. There were 20 systems that could be inserted into games.

Q. Did Rockwell actually furnish such systems?

A. Yes.

Q. Was that in accordance with an agreement

Neyens - direct

entered into with Rockwell on or about this time?

(There was a discussion off the record,  
after which the taking of the deposition  
was resumed as follows:)

MR. HARDING: Would you read the question  
back, please?

Q. (Read by the reporter.)

BY THE WITNESS:

A. I do not know how to answer it. Could you  
state the question again? Rephrase it, perhaps?

BY MR. WELSH:

Q. Did you have an agreement with Rockwell to  
enter into an agreement with Rockwell to furnish the  
20 prototype systems?

MR. HARDING: Ever?

MR. WELSH: Yes.

BY THE WITNESS:

A. Yes.

BY MR. WELSH:

Q. So the furnishing of those systems to you  
was in accordance with an agreement?

A. Yes.

Q. Was that a formal agreement?

A. I do not know. I did not see if it was. I

Neyens - direct

do not know.

Q. At the time those prototype systems were received, had Gottlieb decided to use the Rockwell system in production, or was --

A. Qualified yes.

Q. What was the purpose of receiving the prototype?

A. To try them out.

Q. To determine whether you wanted to go into production?

A. Yes.

Q. So you had not decided finally to go into production?

A. No, not at that time.

Q. Had you chosen the Rockwell system over the National system?

A. Yes.

Q. That was a definite decision?

A. Oh, yes, at that time they both brought their games in, it was a definite decision at that time. We abandoned National at that time.

Q. So you were really negotiating with Rockwell about the time of this October 20 date referred to on Exhibit 1950?

Neyens - direct

A. Yes.

Q. And you had already by that time abandoned  
National?

A. Yes.

Q. I refer you to a document with identification  
numbers G0920 through 922, which appears to be a letter  
to you from Mr. Robert <sup>VUGLAR</sup> Lugar of Delta Technical Sales  
Corporation dated December 1, 1976. Do you recall  
receiving that letter on or about that day?

A. Obviously I received it. I do not understand  
the date on it. It seems late in time.

Q. It indicates a meeting with you on the  
preceding Wednesday, whatever that date would have  
been.

A. <sup>VUGLAR</sup> Mr. Lugar.

Q. Do you recall such a meeting?

A. I remember several meetings with Mr. <sup>VUGLAR</sup> Lugar.

Q. Was Delta Technical Sales Corporation at that  
time representing National Semiconductor?

A. Yes, they were.

Q. Was he one of the persons who met with you  
when that original presentation was made?

A. Yes.

Q. Do you have any recollection of this meeting

Neyens - direct

in particular?

A. I say I met with him several times. The date seems late in time, like I say. He is a typical salesman. They do not give up easy. He could have still been pushing, I do not recall. I do not know.

Q. It is your best recollection that you had told National that you were not interested prior to that time --

A. Yes, yes.

Q. And you had already attempted to go forth --

A. I did not understand this at all.

Q. You had already attempted to go forward with Rockwell as of December 1, 1976?

A. Yes.

MR. WELSH: Why don't we take our afternoon recess at this point.

(There was a brief recess, after which

the taking of the deposition was resumed as follows:)

MR. WELSH: Would you read back the last question and answer?

(WHEREUPON, the record was read by the reporter.)

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BY MR. WELSH:

Q. Was the decision to go ahead with Rockwell and abandon National made after inspection of prototypes of Royal Flush games with solid state control systems made by both of them?

A. Yes.

Q. Who made the inspection of the different games, different prototypes on behalf of Gottlieb?

A. Allen Edwall.

Q. Did he make the inspections alone?

A. No, I was with him.

Q. Where were the inspections made?

A. At our factory.

Q. Was anybody else present?

A. From time to time, yes.

Q. How long did the inspection of each game take?

A. I do not know.

Q. Were both games present during the inspection or were they inspected at different times?

A. They came in at different times. I do not recall whether we had them both there at the same moment or not.

Q. Do you know whether Mr. Edwall had an

Neyens - direct

opportunity to inspect either game at that facility of either National or Rockwell in California prior to the time when you and Mr. Edwall made your joint inspection?

A. I do not recall. I know he was there several times. I am not sure whether it was at that time or not. I do not know.

Q. Referring again to Exhibit G1949, which indicates a shipping date of October 29, 1976 of a Gottlieb game from Rockwell to Gottlieb with a micro-processor system in the game, was there only one such game about this time?

A. Yes.

Q. So your inspection with Mr. Edwall would have had to have been after this shipping date?

A. Yes.

Q. However, that date of October 29, 1976 was after the October 20 date of 1976 appearing on Exhibit G1950, before which if I understood your testimony correctly, the decision had been made to go with Rockwell? Do you agree that there is some discrepancy?

A. Yes, there is a discrepancy, yes.

Q. I call your attention to this exhibit, G1950, which apparently is a repeat at least of a letter of October 19 to Mr. Smith, and the remainder of this

Neyens - direct

must be a telex, include modified delivery schedules and it says:

"Dear Mr. Smith, further to your visit to our facility on October 12 and 13, is it possible that Mr. Smith and perhaps Mr. Edwall with him had already met at the facility of Rockwell and examined the Royal Flush demonstrator system?"

A. I do not recall whether Mr. Allen was with Mr. Smith at this time or not on that visit. He may have been.

Q. Now there appears a stamp here, Rockwell requires six weeks to complete all changes and finalize the complete system to meet your specific requirements. This includes another final review by you, this is directed to Mr. Smith or to Mr. Edwall -- is it possible that the final decision had not been made to go with Rockwell by this time?

MR. HARDING: Are you asking him to speculate? You say is it possible.

MR. WELSH: Does this help him in any way to explain the discrepancy?

MR. HARDING: I want the witness to testify as to his recollection and not to speculate.

Neyens - direct

BY THE WITNESS:

A. I do not recall.

BY MR. WELSH:

Q. I show you what has been marked as Document numbered G0981 and 982, and ask if you recognize that as something you have seen before?

A. I have not seen this before.

Q. Do you have any recollection of the subject matter?

A. I recognize the subject matter.

Q. In what connection do you recognize that?

A. I recognize it as Allen's comment of the game he looked at.

Q. Do you know what game he is referring to?

A. No.

Q. Did you discuss these comments with him?

A. No.

Q. I show you a document with identification number G0916 and 917 and ask if you recognize that as something you have seen before?

A. That is the same as the other one. I do not recall having sent it. I saw it when it was made.

Q. Do you recall discussing the subject matter with Mr. Edwall?

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A. No, I do not.

Q. I show you a document with identification numbers G0969 through G0976 and ask if you recognize that as something you have seen before?

A. These are parameters set forth by Allen.

Q. For the Rockwell system?

A. Parameters set up for a game.

Q. Do you know the circumstances under which these parameters were set up?

A. He had to sit down and write out what we wanted our system to do, I think, was the only -- you see, these people were not pinball people. They did not understand anything to do with pinball.

Q. By these people, you are meaning Rockwell?

A. Rockwell or National. Neither one were pinball people. They do not understand pinball games.

Q. Do you know whether these parameters were given to either of them?

A. They were certainly given to Rockwell.

Q. You do not know about National?

A. No.

Q. Was the decision made to go with Rockwell and to abandon the National system after the inspection by you and Mr. Edwall of the two systems?

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A. Yes, yes.

Q. Whose decision was it?

A. The final decision was mine.

Q. What was that based on?

A. On the two games we saw, Allen's recommendations, the possibility of getting good boards, good service.

Q. Were those also the basis of your decision to abandon National?

A. Yes, we could not go both ways. We had to make a decision. The decision had to be made.

Q. It was Mr. Edwall's recommendation that you go with the Rockwell system?

A. Yes, we all agreed on that.

Q. When you say we all, was there anyone else involved other than you and Mr. Edwall?

A. Of course, the decision had to be made by everybody, including Mr. Weinberg, Mr. Gottlieb, Mr. Smith, myself and Allen. They followed our recommendation.

Q. Was there anything wrong with the National system that caused you to abandon it?

A. It was not as neat a layout. We thought it was technically not as well put together as the Rockwell

Neyens - direct

system.

Q. Could you be more specific in that regard?

A. No, I cannot.

Q. Did you rely on Mr. Edwall?

A. Yes.

Q. In that respect?

A. In that respect as far as the system was concerned, yes.

Q. Do you have any recollection as to what he said with respect to the fact that the National system was not put together as well as Rockwell's?

A. No, I do not recall his exact words.

Q. Were you informed at that time that Mr. Stroll was leaving National Semiconductor?

A. No, we did not know that.

Q. That was not a factor in your decision?

A. No, we did not know that until it came into the trade journals.

Q. Were you still dealing with Mr. Stroll at the time you received the prototypes?

A. I do not believe so. It seems to me he went out of the picture a little bit.

Q. You gave us some of the bases for the decision to go to Rockwell as good boards and good

Neyens - direct

service.

A. Cleaner system we thought.

Q. You meant that the system provided better service or the company might; that is, Rockwell might provide better service than National?

A. We had no way of knowing what Rockwell would do later on, but we thought the people were people we wanted to deal with.

Q. Service was one consideration?

A. One consideration, right.

Q. Did the games appear to you to play differently -- National versus Rockwell?

A. Not as far as play was concerned, no.

Q. At the time you made the decision, did you feel that the Rockwell system was ready to go into production?

A. It was very clear.

Q. If the games played the same way, what was there about them that caused you to favor the Rockwell system, because I believe you said your decision was based in part on the games you saw?

A. Yes, they were like I said, put together poorly. The National game was put together poorly. We thought the workmanlike manner in which they failed --

Neyens - direct

we needed shielding all over the game. We were afraid of that shielding.

The Rockwell system needed no shielding, very little shielding if any. We thought that was a real plus, but as far as the working of the games, they were pretty much alike, little to choose from.

Q. The actual play of the game?

A. The actual play of the game.

Q. Do you remember any of the specifications such as the differences in shielding?

A. That was the big thing that we did not care for in the National system.

Q. Do you know why National had shielding and Rockwell did not?

A. No.

Q. Were National personnel present or Rockwell people present when you inspected the two machines?

A. They were there to set up the machines.

Q. Were they there to answer questions?

A. Yes.

Q. Were there any questions about the shielding?

A. Yes.

Q. What were those?

A. They thought it was necessary. National

Neyens - direct

thought it was necessary.

Q. Did they indicate why?

A. No.

Q. Did Mr. Edwall discuss with you the differences in the electronics of the two systems?

A. Yes, we discussed it.

Q. What did you discuss in that regard?

A. I do not recall the detail of the conversation.

Q. Do you recall anything about it?

A. No.

Q. Did he give you as part of his reasons for selecting Rockwell any differences in the electronics of the two systems?

A. I do not recall any. It was not a clearcut decision.

Q. I believe you indicated before it was tentative. Is that what you mean by not clearcut?

A. No, we had two games and we looked at them both. We analyzed them both. We had to make a choice. We could probably have gone either way and maybe been just as happy. You have no way of knowing. We have no way of knowing.

Q. Had the in-house development work continued up to the point of this decision?

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A. Yes.

Q After the decision was made to go with Rockwell, what happened to your in-house development?

A. We abandoned it at that time.

Q. When you made a decision to go to one or the other of National and Rockwell, did you also at that time consider going ahead with your in-house development?

A. No, we put our whole effort into the Rockwell.

Q. Had you prior to that time when you decided to go ahead with National and Rockwell, pretty well abandoned your in-house development?

A. No, not until we definitely went with Rockwell, committed ourselves to Rockwell. We were still not sure at that point whether we would stay in-house or go with Rockwell or National. There was a lot of thought in all three directions.

Q. Did Mr. Edwall ever discuss with you any similarities between his in-house system and either of the Rockwell or National systems?

A. I do not recall.

Q. Do you know if Mr. Edwall ever discussed the in-house system with either the National or

Neyens - direct

Rockwell?

A. No, I do not.

Q. He did not mention to you whether he did or not?

A. That is correct.

Q. Did you ever have any discussions with him about whether he should or should not advise either National or Rockwell that he had been working on an in-house system?

A. I think they knew we were working on an in-house system and when Rockwell worked on their first game, they received no help from us whatsoever.

Q. Is the same thing true of National except for the coils?

A. We had sent them coils, but we gave them no help. If they requested something, like they wanted the two games, we sent them the two games. We sent them the cabinets, the transformers, whatever they needed. We helped them in that respect, as far as parts are concerned. They did not have parts. If they wanted a coil wound, it was a major project for them. For us it was nothing.

Q. What, if anything, was done after the decision to go with the Rockwell system was made, and

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I believe you said the guidelines or parameters were furnished by Mr. Edwall?

A. Yes.

Q. What happened then?

A. They proceeded to make the boards up for the 20 prototypes that they build, write the software.

Q. Was there any understanding with Rockwell as to assistance to be made available to Gottlieb?

A. Yes, we did. We told them we would assist them in any way we could.

Q. Was assistance actually given?

A. Oh, yes, it became a joint effort at that time.

Q. Who at Gottlieb participated?

A. Allen and myself.

Q. Anyone other than the two of you?

A. No.

Q. Was a different game than Royal Flush used for the prototypes?

A. Yes.

Q. What game was used?

A. Cleopatra.

Q. Was it known as Cleopatra at the time the prototypes were being made?

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A. Yes.

Q. Did it have any other designation such as a number designation?

A. We called it 409-SS.

Q. Was there also an electromechanical version of the Cleopatra?

A. Identical game.

Q. Was the electromechanical version already in production at the time that the prototypes were commenced at Rockwell?

A. No.

Q. At what stage of development and production was it?

A. We tried to pick a game that would come out approximately the same time in both mechanical and solid state so we went back into our storehouse of designed games and picked out one we thought was a good example of an outstanding game. I chose Cleopatra as the game for both to come out at that time. From then on it was a timing sequence of events. I brought them out about the same time.

Q. Was that for the purpose of comparing the two?

A. Yes.

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Q In the field?

A Right, to give the operators a chance to choose between the two.

Q Was Columbia Pictures involved in any way in the decision to use the Rockwell system?

A None, no way.

Q Was it involved in any way in the decision to use the game called Cleopatra?

A No way.

Q I show you what has been marked Document No. G0540 and ask you if you recognize that as something from the files of Gottlieb?

A Yes.

Q What do you recognize that to be?

A This is a result of a meeting that we had with the Futaba people.

Q Are those notes in your handwriting?

A Yes.

Q Were they notes you took at the meeting?

A Yes.

Q That took place on November 7, 1976?

A '76.

Q Was that meeting conducted in connection with your assistance to Rockwell in connection with the 20

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prototypes?

A. Yes.

Q. I show you now a document bearing identification number G0545.1 on the date of November 23, 1976, and ask if you recognize that document as something you have seen before?

A. I remember it, yes.

Q. What do you recognize it to be?

A. It is in response to a telephone call from Bob Browning, can we send them 25,000. We are committing ourselves to them obviously.

Q. Are those notes your handwriting?

A. Yes, they are.

Q. Do they reflect the subject matter of your phone conversation with Mr. Browning?

A. Yes.

Q. On that date?

A. Yes.

Q. Did you on that date, so far as you know, cause the \$25,000 to be sent to Rockwell?

A. I am sure we did. It could have been, I do not know -- within a short time.

Q. Paragraph 3 states give them another \$25,000 on the day they show us the Royal Flush game as per our

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instructions.

A. Yes.

Q. Was that \$25,000 paid?

A. When we committed to something, we pay it.

It was paid.

Q. Is it correct then that additional work was done after this November 23 date on the Royal Flush game?

A. Yes, must have reprogrammed it at that time.

Q. In Paragraph 1 it says the game Royal Flush shipped today or tomorrow. Was that the prototype game that they shipped out to you?

A. I do not know. I do not know what that referred to, probably the mechanical game we had out there.

Q. At your plant, you mean?

A. No, Rockwell had -- we had sent them two games, you will recall one was a mechanical game in its complete condition and one was a shell.

Q. Yes.

A. That might refer to -- I'm not sure what it refers to. It might refer to the mechanical game they shipped back to us.

MR. HARDING: Do not speculate.

BY MR. WELSH:

Q. You do not know whether it was shipment back

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to Gottlieb of the Gottlieb machine with the microprocessor?

A. I do not know.

Q. Paragraph 4 states we have committed ourselves to the 20 prototype at \$2,000 each. Did you pay \$2,000 each for the 20 prototypes?

A. I do not know.

Q. Were the 20 prototypes of the 409-SS game or Cleopatra to go forward during Royal Flush programming referred to in Paragraph 3 of Document 545.1, or was the Royal Flush programming with payment of the second \$25,000 to precede the work on the 20 prototypes?

A. I do not know.

Q. I may have asked you this. Did you also pay the second \$25,000?

A. Yes, we paid the second \$25,000.

Q. I show you now Document No. 30926, which has the heading "National Semiconductor" on the date 11/24/76 and ask you if you recognize that as anything you have ever seen before?

A. No.

Q. Are you familiar with the subject matter?

A. I see what it is, but I am not familiar with it.

Q. That November 24 date is the same date as

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the meeting referred to on Document G0920, which is part of a letter from Mr. <sup>VUGLAR</sup> Lugar of Delta Technical Sales to you. He is confirming the meeting he had last Wednesday, November 24.

Do these help refresh your recollection at all as to where that meeting took place?

A. When this meeting took place on 11/7, we were committed to Rockwell. I do not know what this is. It could mean anything.

Q. So as far as you were concerned, you were committed to Rockwell prior to the 11/23/76 date of your telephone conversation with Mr. Browning?

A. Absolutely.

Q. Does the \$50,000 payment in two different sums of \$25,000 each, the same \$50,000 that is referred to on Exhibit G1950?

A. Yes, it would be the same.

Q. I show you a Document G1019, and ask if you recognize that as something you have seen before?

A. No, I do not recall this, no.

Q. Are you familiar with the subject matter?

A. Yes.

Q. Do you recall what the subject matter is?

A. It has to do with the digits, six-digit

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display that we were trying to get to. We liked Futaba. Burroughs was trying to make something similar to it and trying to push it. I do not think they ever came out with it actually. Again, it is salesman talk.

Q. Do you know who prepared this document?

A. No, I do not.

Q. I show you now what has been marked as Document No. G1274, G1275, G1225 and G1230 and G1232, and ask if you recognize these documents as anything you have seen before?

A. Yes, I have seen them.

Q. Under what circumstances?

A. We looked at it along with all our games.

That is Allen Edwall's thoughts.

Q. As a result of his evaluation of the game?

A. Yes.

Q. Did you discuss it with him?

A. We probably did. We discuss everything.

Q. Do you recall seeing these documents?

A. Yes.

Q. Did you see them during a discussion with him about the Fireball game?

A. No, I believe we discussed the game and I told him to make some notes on it and we shipped it out.

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Q You did ship it out?

A Yes.

Q To where?

A Let's see, I'm not sure where it went. We do not have it anymore.

Q Was this a special circumstance that you asked him to make these notes on that game?

A No.

Q Did you ask him to make notes on every game?

A No.

Q Why did you happen to ask him to make notes on the Bally Fireball?

A I guess because it was just a special piece, it is a home game. Home games were something new.

Q Did you ask him to look at it and make notes because it might have some bearing on your own solid state pinball control system?

A No, no.

Q Did you have a Fireball game at your facility on or about this date of October 28, 1976 that the Document G1275 bears?

A Yes.

Q Do you know whether that Bally game or any part of it was brought up in any discussion with

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Rockwell?

A. Not that I know of.

Q. I show you now a document bearing identification No. G181 and ask if you recognize that document as something that you have ever seen before?

A. No, I never saw it before.

Q. Now it refers to in the upper left-hand corner, to Bally Fireball and bears the date 12/23/76. Do you recall whether that Fireball game of Bally was still at Gottlieb's facility on that later date?

A. No, I do not recall.

Q. Do you recognize any of the handwriting or notes on this document?

A. No, I sure don't.

Q. I show you a document with identification number G1271 through G1274 and ask if you recognize that as anything you ever saw before?

A. No, I never saw this before.

Q. This document bears the heading Mirco - Spirit of '76 and appears to be a listing of parts with notes and some circuit diagrams. Do you recall discussing with anyone such as Mr. Edwall examination of the Mirco Spirit of '76 game?

A. It follows along with the Fireball. I took

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a look at it, told him to make a few notes on it.

Q. Is there any special repository for notes of competitors' games in your engineering development department?

A. Yes.

Q. Do you have any practice with respect to what is put in there?

A. Every game that comes in that we look at, we fill out a form that goes into a file.

Q. That is a regular form versus --

A. Yes.

Q. -- notes such as this?

A. Versus notes, right, not in that detail.

Q. What occasions preparation of notes in such detail as this Document G1271 through 74 has?

A. It is like the Fireball. It is an oddball game and something that I had Allen look at rather than the normal. The normal man that makes out these records knows nothing about electronics, and he is a mechanical man and therefore it got out of routine.

Q. Is it correct then that the examination of both the Bally Fireball and the Mirco Spirit of '76 were out of routine examinations?

A. Only in the fact that it was a solid state

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game, and the normal man would not be able to recognize any of it.

Q. More recently, when there are more manufacturers of solid state games, what is your practice with respect to making reports?

A. We still make out the report the same way we used to.

Q. The same form of the record?

A. Yes.

Q. Now, are there instances such as these where you asked Mr. Edwall to give a more detailed analysis?

A. I have not since this time.

Q. Do you recall any other games around this time which you asked Mr. Edwall to examine and make a detailed report of?

A. I do not recall any. Could have been, I do not know.

Q. How about the Bally Freedom game?

A. Could have been.

Q. Are you familiar with that game?

A. Yes, could have been.

Q. Do the records and the form that you have for competitors' games contain dates?

A. Yes.

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Q. Do they contain indication of the person examining the game or making out the report?

A. No.

MR. WELSH: Do I understand correctly, Mr. Harding, that a search was made of those records?

MR. HARDING: A search was made of those records in attempted compliance with our local rule understanding of anything having to do with non-solid state was not of interest. So there may have been forms for certain games that did not appear to have any solid state impact in those records, but may have been dated to show when, in fact, Gottlieb examined certain games, and I will check if you tell me the ones that you want.

MR. WELSH: Okay, we would like to check the records of Mirco's Spirit of '76, Bally Fireball, Bally Freedom, and Allied Leisure Dynamite.

Also, an Allied Leisure Thunderbolt.

MR. HARDING: As I recall, you have one for the Atari game so you can see what the form looks like.

(There was a brief recess, after which the taking of the deposition was resumed as follows:)

Neyens - direct

BY MR. WELSH:

Q. Are you familiar with a pinball game of Allied Leisure, which was sold under the name Dynamite?

A. I have heard the name.

Q. Do you know whether that was a solid state pinball game?

A. No, I do not know.

Q. Do you know whether Gottlieb in accordance with its practice acquired a Dynamite game to examine?

A. I do not recall.

Q. Are you familiar with the Allied Leisure game called Thunderbolt?

A. No.

Q. Are you familiar with Allied Leisure?

A. Oh, yes.

Q. Is Allied Leisure a manufacturer of pinball games?

A. Yes.

Q. Do you know whether Allied Leisure ever manufactured a solid state pinball game?

A. Yes, they did.

Q. When did you become aware of that?

A. I do not recall when. It was in some of their advertising someplace.

Neyens - direct

Q. Did you ever --

A. They are a minor influence in the industry  
and we do not pay much attention to them.

Q. What was the name of that game?

A. Which game?

Q. The Allied Leisure solid state game that you  
became aware of?

A. I do not recall the name of the game.

Q. Did I ask you if you recall when?

A. Yes, I do not recall when.

Q. Did you say you did not consider Allied Leisure  
to be a major influence in the industry?

A. Yes.

Q. Who do you consider to be major influences  
in the pinball industry?

A. The larger manufacturers.

Q. Who are they?

A. It is common knowledge in the industry.

Q. Who do you think they are?

A. Gottlieb, Bally, Williams, Stern.

Q. Any others?

A. Atari.

Q. Any others?

A. No.

Neyens - direct

Q. Those are all U. S. manufacturers?

A. Yes.

Q. Did you consider any foreign manufacturers to be a major influence?

MR. HARDING: Major influence on what?

MR. WELSH: In the pinball game market in this country.

MR. HARDING: In the United States.

MR. WELSH: Yes.

BY THE WITNESS:

A. No.

BY MR. WELSH:

Q. Do you have any view as to who has the largest share of the pinball market today?

A. No, I do not.

Q. You have no view at all?

A. Today?

Q. As of the current time frame, not necessarily this particular day.

A. Who has the highest rate of production today?

Q. At this point in time, not who produces the most today, June 28, 1979, but who --

A. I have no way of knowing what the production records are of Bally, Williams, Stern or Allied Leisure, or whoever.

Neyens - direct

Q. Are you exposed to any estimates of marketing percentage of Gottlieb with respect to this?

A. I have no way of knowing what anybody produces.

Q. Have you discussed with anyone at Gottlieb the relative position of major manufacturers in this country?

A. No.

Q. Have you discussed with anyone at Gottlieb whether there has been any change in the relative position or market share of the major manufacturers within the last two years?

A. No, we are so busy doing our daily thing, we do not go out gossipping with all those people. We do our thing and let them do theirs, and that is what we like. We do not pay any attention to them. We build the best game we can build and sell for the best price we can sell it for.

Q. Has Gottlieb been concerned that its share of the market has changed in the last two years?

A. I was not aware it has changed.

Q. Have you any views as to what Gottlieb's present position with respect to the share of the market is?

A. No.

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Q Have you even any views as to what it was  
three years ago?

A. No.

Q Have you any views that three years ago  
Gottlieb was the largest manufacturer or manufactured  
the most pinball games in this country?

A. I do not know whether that is true or not.

Q. You have not?

A. I hope it was.

Q. Do you hope it was?

A. I do not know.

Q. Did you hope it was as of three years ago?

A. I hope it is today.

Q. You do not know --

A. I do not care. All I do is what I do, and  
that is what I do.

Q. You have not been involved or heard any  
discussions at Gottlieb as to relative market position?

A. No.

Q. I show you now a document bearing identifica-  
tion number G1020 and ask if you recognize that as  
something you have seen before?

A. I have never seen it before.

Q. Are you familiar with the subject matter?

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A. Yes, apparently a letter from Chuck Bopf to somebody who I have never heard of.

Q. Who is Church Bopf?

A. He is the Rockwell man.

Q. Is it true that Gottlieb wished quotations on displays as stated in this letter?

A. We were talking about displays, yes, quite a bit.

Q. Do you know whose displays were referred to in this letter?

A. We are talking about the Burroughs, which refers to that other paper you have there. We were talking at the Futaba -- we liked it very much.

Q. Were you interested in those displays for production models -- solid state?

A. Yes, production.

Q. Not just the prototypes?

A. No, production models.

Q. What display did you ultimately decide on?

A. Futaba.

Q. Is that still being used?

A. Yes.

Q. I show you a document numbered G1018 and ask if you recognize that?

Neyens - direct

A. That is apparently a letter to Mr. Edwall from Carlson Electronics Sales Company dated December 16, 1976.

Q. Have you ever seen that document before?

A. No.

Q. Are you familiar with the subject matter?

A. No.

Q. Do you know whether Mr. Edwall was seeking information with respect to Beckman's displays?

A. I do not.

Q. Did you discuss with Mr. Edwall the use of Beckman as a possibility?

A. No, no.

Q. After you had made the decision to go to the Rockwell system, was there a schedule setup regarding what Rockwell was to do?

A. Yes.

Q. Does that schedule refer to Document G1951, which is part of the three-page document which has a reference to a telephone conversation between Rockwell and Gottlieb on October 20, 1976?

A. It certainly would be tentative at best.

Q. I see a reference under heading Schedule to finalize the system to meet the requirements indicated

Neyens - direct

by Mr. Smith and Mr. Edwall will require two and a half weeks from go-ahead and to provide production prototypes and subsequent production will require three months of production engineering to produce approximately 20 prototype models.

Do you know if that schedule was adopted?

A. Like I say, it was a very tentative schedule. Yes, we tried to adhere to it. I am sure they tried to adhere to it.

Q. Is it correct that during the period referred to, you and Mr. Edwall gave whatever assistance was requested to Rockwell people?

A. Yes.

Q. Was your request with respect to displays to be used in production models a part of that assisting effort? Were you trying to determine what displays would be used before the prototypes were completed?

A. Yes, they made the displays to our specifications.

Q. Was it more or less the responsibility of Gottlieb; that is, you and Mr. Edwall to make that determination?

A. Yes.

Neyens - direct

Q. I show you now documents bearing Identification numbers G539.1 and 539.2 and ask if you recognize those documents?

A. Yes, they appear to be somebody's notes dated December 6, 1976. Those are my notes.

Q. What do they relate to?

A. A discussion we had at Rockwell.

Q. On that date?

A. On that date.

Q. What was the discussion about?

A. Configurations, how we were going to make the board, number of drivers.

Q. Were those boards for prototypes or for the demonstration system?

A. These are for the prototypes. This was the game.

Q. The X409 Cleopatra?

A. The X409.

Q. Who was present at these discussions?

A. There was Allen Edwall, myself, representing Gottlieb, Ray from Futaba, whoever Ray is, I do not know his last name. The Rockwell people were there. Folwell was one of them.

Q. How do you spell that?

Neyens - direct

A. F-o-l-w-e-l-l. That is fairly close. That may not be accurate, but it is fairly close.

Q. Would Browning have been there?

A. Several others from Rockwell.

Q. What was Folwell's position?

A. He was in charge of the engineering and became involved in this project.

Q. Do you know his first name?

A. Dale.

Q. What was Mr. Browning's position?

A. He was sales manager, the sales contact to us.

Q. Was he a sales manager of the microelectronics division of Rockwell?

A. No, not the division. He was our contact with them.

Q. But he did have the title sales manager?

A. I do not know what his title was.

Q. There is a notation they will call us when game is complete. It should be one or two weeks. Do you know what game was referred to there? Was that the final demonstrator system?

A. That would be their final demonstrator. That would be our system put together.

Neyens - direct

Q In that work, would that be or was that the work referred to as requiring two and a half weeks from go-ahead?

A I do not know. I do not get the connection between the two.

Q Isn't the work on the, "completion of all changes and finalize the complete system to meet specific requirements of Gottlieb," referred to in the fifth paragraph on Exhibit G1950 --

A It says six weeks. Rockwell requires six weeks to complete all changes and finalize the system. This was back in October.

Q December?

A In December. This is obviously the game they are talking about here. They have now finished it.

Q The game referred to at the top of Exhibit G539.2 is the same as the one referred to in the fifth paragraph of the document G1950, is that correct?

A Yes.

MR. WELSH: I think we can adjourn for the day. We will reconvene at 10:00 o'clock and I will hope to complete Mr. Neyens by noon approximately. I will make every effort.

Neyens - direct

(WHEREUPON, the taking of the deposition  
was adjourned to Friday, June 29, 1979,  
at 10:00 o'clock a.m.)